

REGULAR MEETING - CITY COUNCIL - CITY OF NEWTONMAY 4, 2004

The City Council of the City of Newton held a regular meeting at 7:00 PM on Tuesday, May 4, 2004 at City Hall with the following present: Mayor Robert Mullinax, Council Members Wayne Dellinger, Al Gaither, Tom Dixon, Tom Rowe, Anne Stedman, Roy Johnson, City Manager Edward Burchins, City Attorney Larry Pitts, Assistant City Manager Glenn Pattishall and City Clerk Rita Williams.

ITEM 1 - CALL TO ORDER.

Mayor Mullinax called the meeting to order and welcomed citizens in the audience. He offered condolences to the family and friends of former Fire Chief Bill Russell, who passed away over the week-end.

ITEM 2 - OPENING.

Assistant City Manager Pattishall gave the invocation and led the Pledge of Allegiance.

PROCLAMATION DESIGNATING MAY 15TH AS PEACE OFFICER'S MEMORIAL DAY AND THE WEEK OF MAY 9-15, 2004 AS NATIONAL POLICE WEEK.

Mayor Mullinax read a proclamation designating May 15th as Peace Officer's Memorial Day and the week of May 9-15, 2004 as National Police Week.

PROCLAMATION DESIGNATING MAY AS OLDER AMERICANS MONTH

Mayor Mullinax read a proclamation designating May as Older Americans Month.

ITEM 3 - APPROVAL OF MINUTES OF THE APRIL 21, 2004 REGULAR MEETING.

A motion was made by Council Member Johnson, seconded by Council Member Gaither, and unanimously adopted that the minutes of the April 21, 2004 regular meeting be approved as submitted:

ITEM 4 - CONSIDERATION OF APPROVAL OF CONSENT AGENDA ITEMS.

A motion was made by Council Member Dixon, seconded by Council Member Rowe, and unanimously adopted to approve the following items on the Consent Agenda:

A. Tax refund.

| <u>Year</u> | <u>Ref. #</u> | <u>Name</u>             | <u>Reason</u>          | <u>Amount</u> |
|-------------|---------------|-------------------------|------------------------|---------------|
| 2003        | 2             | Schwarz & Schwarz, Inc. | Revalued per Tax Comm. | \$1,579.16    |

B. Consideration of initiating court proceedings on the following code enforcement cases:B.1 Mrs. Sarah Collins - Nuisance violation.

RESOLUTION # 8-2004

RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF NEWTON

## CONCERNING:

OWNER/OCCUPANT/TENANT: Ms. Sarah CollinsOWNER'S ADDRESS: 112 Ann Ave., Newton, NC 28658PROPERTY ADDRESS: 112Ann Ave., Newton, NC 28658TAX MAP REFERENCE: MAP 61N, BLOCK 08 LOT03 (COUNTY Catawba)PIN: 3740 07 59 2235

BEING A RESOLUTION directing the City Attorney for the City of Newton pursuant to Chapter 16 Nuisances of the City of Newton Code to petition the Superior Court of the General Court of Justice of the State of North Carolina for an order directing such owner named herein to comply with Order of the Code Enforcement Officer as authorized by Chapter 16, Sections 16-6 and 16-7 Nuisance of the City Code; and

WHEREAS, the City Council of the City of Newton finds that the property herein described is a safety and health hazard to the public under the provisions of the Nuisance Code and that the provisions of said Code have been complied with as a condition to the adoption of this resolution; and

WHEREAS, the owner of said property has failed and refused to comply with a lawful order of the Code Enforcement Officer to remove the same to meet the requirements of Nuisances Code within the time period prescribed;

NOW, THEREFORE; be it resolved by the City Council of the City of Newton that the City Attorney for the City of Newton pursuant to Chapter 16, Sections 16-6 and 16-7 Code of the City be authorized and directed to petition the Superior Court of the General Court of Justice of the State of North Carolina for an order directing such owner named herein to comply with Order of the Code Enforcement Officer as authorized by the North Carolina General Statutes, said Order of the Code Enforcement Officer being dated March 24, 2004 and incorporated by reference into this Resolution.

ADOPTED THIS 4TH DAY OF MAY, 2004.

Robert A. Mullinax, Mayor

ATTEST:

Rita K. Williams, City Clerk

B.2 Mrs. Sarah Collins - Junk vehicle violation.

RESOLUTION #9-2004  
RESOLUTION OF THE CITY COUNCIL  
OF THE  
CITY OF NEWTON

CONCERNING:

OWNER/OCCUPANT/TENANT: Ms. Sarah Collins

OWNER'S ADDRESS: 112 Ann Ave., Newton, North Carolina 28658

PROPERTY ADDRESS: 112 Ann Ave., Newton, NC

TAX MAP REFERENCE: MAP 61N, BLOCK 08, LOT 3 (COUNTY Catawba)

PIN 3740 07 59 2235

BEING A RESOLUTION directing the City Attorney for the City of Newton pursuant to Chapter 14A Abandoned, Nuisance and Junked Motor Vehicles of the City of Newton Code to petition the Superior Court of the General Court of Justice of the State of North Carolina for an Order directing such owner named herein to comply with Order of the Code Enforcement Officer as authorized by Chapter 14A (Abandoned, Nuisance and Junk Motor Vehicles), Sections 14A-3; 14A-4; 14A-5.

WHEREAS, the City Council of the City of Newton finds that the property herein described contains vehicles which are safety and health hazards to the public under the provisions of the Abandoned, Nuisance and Junked Motor Vehicles Code and the provisions of the Nuisance Code and that the provisions of said Code have been complied with as a condition to the adoption of this resolution; and

WHEREAS, the owner of said property has failed and refused to comply with a lawful order of the Code Enforcement Officer to cause said vehicles to meet the

requirements of Abandoned, Nuisance and Junk Motor Vehicles Code with the time herein prescribed;

NOW, THEREFORE; be it resolved by the City Council of the City of Newton that the City Attorney for the City of Newton pursuant to Chapter 14A, Abandoned Nuisance and Junked Motor Vehicles, Sections 14A-3; 14A-4; 14A-5 Code be authorized and directed to petition the Superior Court of the General Court of Justice of the State of North Carolina for an order directing such owner named herein to comply with Order of the Code Enforcement Officer as authorized by the North Carolina General Statutes, said Order of the Code Enforcement Officer being dated March 24, 2004 and incorporated by reference into this Resolution.

ADOPTED THIS 4TH DAY OF MAY, 2004.

ROBERT A. MULLINAX, MAYOR

ATTEST:

RITA K. WILLIAMS, CITY CLERK

B.3 Martha E. Burke Estate - Nuisance violation.

RESOLUTION #10-2004

RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF NEWTON

CONCERNING:

OWNER/OCCUPANT/TENANT: Estate of Martha E. Burke  
OWNER'S ADDRESS: 5717 Foote St. NE, Washington, DC 20019-6934  
PROPERTY ADDRESS: 240 S. Caldwell Ave., Newton, NC 28658  
TAX MAP REFERENCE: MAP 19N, BLOCK 1 LOT 13 (COUNTY Catawba)  
PIN: 3740 17 11 6325

BEING A RESOLUTION directing the City Attorney for the City of Newton pursuant to Chapter 16 Nuisances of the City of Newton Code to petition the Superior Court of the General Court of Justice of the State of North Carolina for an order directing such owner named herein to comply with Order of the Code Enforcement Officer as authorized by Chapter 16, Sections 16-6 and 16-7 Nuisance of the City Code; and

WHEREAS, the City Council of the City of Newton finds that the property herein described is a safety and health hazard to the public under the provisions of the Nuisance Code and that the provisions of said Code have been complied with as a condition to the adoption of this resolution; and

WHEREAS, the owner of said property has failed and refused to comply with a lawful order of the Code Enforcement Officer to remove the same to meet the requirements of Nuisances Code within the time period prescribed;

NOW, THEREFORE; be it resolved by the City Council of the City of Newton that the City Attorney for the City of Newton pursuant to Chapter 16, Sections 16-6 and 16-7 Code of the City be authorized and directed to petition the Superior Court of the General Court of Justice of the State of North Carolina for an order directing such owner named herein to comply with Order of the Code Enforcement Officer as authorized by the North Carolina General Statutes, said Order of the Code Enforcement Officer being dated June 19, 2003 and incorporated by reference into this Resolution.

ADOPTED THIS 4TH DAY OF MAY, 2004.

ROBERT A. MULLINAX, MAYOR

ATTEST:

RITA K. WILLIAMS, CITY CLERK

B.4. Floyd/Patty Bumgarner - Junk vehicle violation.

RESOLUTION #11-2004  
RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF NEWTON

CONCERNING:

OWNER/OCCUPANT/TENANT: Mr. Floyd Bumgarner and Ms. Patty Bumgarner  
OWNER'S ADDRESS: 1117 Shannonbrook Dr., Newton, North Carolina 28658  
PROPERTY ADDRESS: 1117 Shannonbrook Dr., Newton, NC 28658  
TAX MAP REFERENCE: MAP 88N, BLOCK 30, LOT 06 (COUNTY Catawba)  
PIN 3730 10 35 7794

BEING A RESOLUTION directing the City Attorney for the City of Newton pursuant to Chapter 14A Abandoned, Nuisance and Junked Motor Vehicles of the City of Newton Code to petition the Superior Court of the General Court of Justice of the State of North Carolina for an Order directing such owner named herein to comply with Order of the Code Enforcement Officer as authorized by Chapter 14A (Abandoned, Nuisance and Junk Motor Vehicles), Sections 14A-3; 14A-4; 14A-5.

WHEREAS, the City Council of the City of Newton finds that the property herein described contains vehicles which are safety and health hazards to the public under the provisions of the Abandoned, Nuisance and Junked Motor Vehicles Code and the provisions of the Nuisance Code and that the provisions of said Code have been complied with as a condition to the adoption of this resolution; and

WHEREAS, the owner of said property has failed and refused to comply with a lawful order of the Code Enforcement Officer to cause said vehicles to meet the requirements of Abandoned, Nuisance and Junk Motor Vehicles Code with the time herein prescribed;

NOW, THEREFORE; be it resolved by the City Council of the City of Newton that the City Attorney for the City of Newton pursuant to Chapter 14A, Abandoned Nuisance and Junked Motor Vehicles, Sections 14A-3; 14A-4; 14A-5 Code be authorized and directed to petition the Superior Court of the General Court of Justice of the State of North Carolina for an order directing such owner named herein to comply with Order of the Code Enforcement Officer as authorized by the North Carolina General Statutes, said Order of the Code Enforcement Officer being dated March 18, 2004 and incorporated by reference into this Resolution.

ADOPTED THIS 4TH DAY OF MAY, 2004.

ROBERT A. MULLINAX, MAYOR

ATTEST:

RITA K. WILLIAMS, CITY CLERK

B.5 Danny Mitchell - Junk vehicle violation

RESOLUTION #12-2004 RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF NEWTON

CONCERNING:

OWNER/OCCUPANT/TENANT: Mr. Danny Mitchell  
OWNER'S ADDRESS: 1395 Benson Lane, Newton, North Carolina 28658  
PROPERTY ADDRESS: 1395 Benson Lane, Newton, NC 28658  
TAX MAP REFERENCE: MAP 16N, BLOCK 20, LOT 32 (COUNTY Catawba)  
PIN 3740 06 38 5244

BEING A RESOLUTION directing the City Attorney for the City of Newton pursuant to

Chapter 14A Abandoned, Nuisance and Junked Motor Vehicles of the City of Newton Code to petition the Superior Court of the General Court of Justice of the State of North Carolina for an Order directing such owner named herein to comply with Order of the Code Enforcement Officer as authorized by Chapter 14A (Abandoned, Nuisance and Junk Motor Vehicles), Sections 14A-3; 14A-4; 14A-5.

WHEREAS, the City Council of the City of Newton finds that the property herein described contains vehicles which are safety and health hazards to the public under the provisions of the Abandoned, Nuisance and Junked Motor Vehicles Code and the provisions of the Nuisance Code and that the provisions of said Code have been complied with as a condition to the adoption of this resolution; and

WHEREAS, the owner of said property has failed and refused to comply with a lawful order of the Code Enforcement Officer to cause said vehicles to meet the requirements of Abandoned, Nuisance and Junk Motor Vehicles Code with the time herein prescribed;

NOW, THEREFORE; be it resolved by the City Council of the City of Newton that the City Attorney for the City of Newton pursuant to Chapter 14A, Abandoned Nuisance and Junked Motor Vehicles, Sections 14A-3; 14A-4; 14A-5 Code be authorized and directed to petition the Superior Court of the General Court of Justice of the State of North Carolina for an order directing such owner named herein to comply with Order of the Code Enforcement Officer as authorized by the North Carolina General Statutes, said Order of the Code Enforcement Officer being dated March 9, 2004 and incorporated by reference into this Resolution.

ADOPTED THIS 4TH DAY OF MAY, 2004.

ROBERT A. MULLINAX, MAYOR

ATTEST:

RITA K. WILLIAMS, CITY CLERK

B.6 Danny Mitchell - Nuisance violation.

RESOLUTION #13-2004  
RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF NEWTON

CONCERNING:

OWNER/OCCUPANT/TENANT: Mr. Danny Mitchell  
OWNER'S ADDRESS: 1395 Benson Lane, Newton, NC 28658  
PROPERTY ADDRESS: 1395 Benson Lane, Newton, NC 28658  
TAX MAP REFERENCE: MAP 16N, BLOCK 20 LOT 32 (COUNTY Catawba)  
PIN: 3740 06 38 5244

BEING A RESOLUTION directing the City Attorney for the City of Newton pursuant to Chapter 16 Nuisances of the City of Newton Code to petition the Superior Court of the General Court of Justice of the State of North Carolina for an order directing such owner named herein to comply with Order of the Code Enforcement Officer as authorized by Chapter 16, Sections 16-6 and 16-7 Nuisance of the City Code; and

WHEREAS, the City Council of the City of Newton finds that the property herein described is a safety and health hazard to the public under the provisions of the Nuisance Code and that the provisions of said Code have been complied with as a condition to the adoption of this resolution; and

WHEREAS, the owner of said property has failed and refused to comply with a lawful order of the Code Enforcement Officer to remove the same to meet the requirements of Nuisances Code within the time period prescribed;

NOW, THEREFORE; be it resolved by the City Council of the City of Newton that the City Attorney for the City of Newton pursuant to Chapter 16, Sections 16-6 and 16-7 Code of the City be authorized and directed to petition the Superior Court of the General Court of Justice of the State of North Carolina for an order directing such owner named herein to comply with Order of the Code Enforcement Officer as authorized by the North Carolina General Statutes, said Order of the Code Enforcement Officer being dated March 9, 2004 and incorporated by reference into this Resolution.

ADOPTED THIS 4TH DAY OF MAY, 2004.

ROBERT A. MULLINAX, MAYOR

ATTEST:

RITA K. WILLIAMS, CITY CLERK

ITEM 5 - PRESENTATION ON AIR QUALITY ACTIONS - JOHN TIPPETT OF WESTERN PIEDMONT COUNCIL OF GOVERNMENTS.

John Tippettt of Western Piedmont Council of Governments gave an updated presentation on air quality actions. He stated sometime ago, Newton joined the Early Action Compact (EAC) to work together with governmental agencies in this area to meet EPA's ozone standard. He said on April 15th, EPA designated 300 counties (which includes Catawba County) as non-attainment for ozone which means that these areas do not meet the federal air quality standard for ground level ozone. However, he said penalties were deferred for Catawba County at this time because of EAC's actions being undertaken to reduce ozone levels. Mr. Tippettt outlined steps being taken by the EAC to reduce the ozone levels and stated all new industries or those who are planning expansions are required to have air quality permits. He said the EAC is doing everything they can to help reduce ozone levels and that if not, it could affect our area by loss of transportation funds for needed projects.

After discussion, Mayor Mullinax thanked Mr. Tippettt for his presentation.

ITEM 6 - OLD BUSINESS:

A. Revised budget schedule.

City Manager Burchins reported that the staff needed a little more time to complete the budget and requested the budget schedule be revised. He recommended, and the Council concurred, for the staff to present the budget to the Council at a meeting to be held on Tuesday, May 11th at 5:30 PM. He said the next meeting would be held on Monday, May 17th at 5:30 PM to start the budget review process.

ITEM 7 - NEW BUSINESS: NONE

ITEM 8 - CITY MANAGER'S REPORT:

A. Schedule work session on water and sewer service to areas not currently served within the City Limits.

City Manager Burchins recommended, and the Council concurred, for a work session to be held at 5:30 PM prior the regular meeting to be held on Wednesday, May 19, 2004 to review areas not presently served with water and sewer.

B. Status report on wastewater treatment plant upgrade project.

Public Works and Utilities Director Marty Wilson gave a status report on the wastewater treatment plant project and stated that bids will be opened on the proposed improvements on May 13th and a report will be given to the Council on May 19th.

C. Report on construction debris collection service.

Public Works and Utilities Director Marty Wilson reported that it has been the City's practice to pick up building rubbish from properties where the property owner has completed the work themselves. If a contractor did the work, then the contractor is required to remove the debris. He said the City's ordinance says that the property owner is responsible for removing the debris if a contractor is not involved. However, the City is now at a point where the cost of providing the labor, equipment and disposal of the debris has made it necessary to adhere specifically to the ordinance. Because of county landfill restrictions, the City is now required to use separate trucks to haul yard waste (grass clippings, trimmings etc) and building rubbish. Mr. Wilson stated he City does not have enough manpower or dependable equipment to continue to provide this service which is above the level required by the ordinance.

Mr. Wilson stated that the City staff is recommending that the City no longer provide pick up of "building rubbish" as defined in the City Code. Residents who generate this type of waste would have to take the debris to the landfill themselves or contract with a private disposal service such as GDS. Private companies can deliver and service a dumpster if a property owner has large amounts of building rubbish to dispose of.

The Council discussed the matter and City Manager Burchins reported that the staff will put a notice to residents on their utility bills about the rubbish pick-up change and will place notices in the newspapers and on the City's web page so all Newton's residents will be made aware of the change in debris pick-up.

D. Other.

City Manager Burchins reported that one of the City's temporary sanitation employees was hit by a car today while standing at the rear of the sanitation truck. He said the employee received very serious injuries and he wanted to advise the Council of the accident. He also requested the public to please be alert when they see City vehicles and City employees working to avoid such accidents.

ITEM 9 - QUESTIONS FROM MAYOR AND COUNCIL. NONE

ITEM 10 - CLOSED SESSION TO CONSULT WITH THE CITY ATTORNEY ON A CONTRACTUAL MATTER - G.S. 143-318.11(a)(3).

A motion was made by Council Member Rowe, seconded by Council Member Johnson, and unanimously adopted that the Council go into Closed Session to consult with the City Attorney on a contractual matter.

After the Closed Session, Mayor Mullinax called the meeting back into session and stated no action was to be taken at this time on the matter discussed.

There being no further business, the meeting was recessed until 5:30 PM on Tuesday, May 11th.

Respectfully submitted,

Robert A. Mullinax, Mayor

Rita K. Williams, City Clerk

BUDGET WORK SESSION - CITY COUNCIL - CITY OF NEWTONMAY 11, 2004

The City Council of the City of Newton held a Budget Work Session at 5:30 PM on Tuesday, May 11, 2004 at City Hall with the following present: Mayor Robert Mullinax, Council Members Wayne Dellinger, Al Gaither, Tom Dixon, Tom Rowe, Anne Stedman, Roy Johnson, City Manager Edward Burchins, City Attorney Larry Pitts and City Clerk Rita Williams.

Mayor Mullinax called the work session, which was recessed from the May 4, 2004 regular meeting, to order.

City Manager Burchins presented the FY 2004-05 annual budget and gave a detailed review of it. He stated the proposed budget totals \$27,830,750 and stated that no property tax rate increase was proposed. He stated the proposed budget includes an increase in various operational fees, i.e. service charges for utility late penalties, return checks, reconnect fees, connect fees, metering tampering fees, etc. Charges for cemetery lots, Planning Department fees, Fire Department fees and commercial dumpster fees are also recommended to be increased. No increase is proposed for water and sewer rates. A 2% rate electric rate increase is proposed to offset the increased cost from the Power Agency. A \$1.00 Customer service charge is proposed for each utility: water, sewer and electric.

Mr. Burchins reviewed the budget highlights including other financing sources and possible refinancing and/or restructuring debt. He reviewed the proposed personnel costs which recommend a 3% cost of living adjustment for employees. He further reviewed projected revenues, expenditures, current debt and fund balances in each fund and recommended funding for outside agencies.

After the review of the proposed budget, Mr. Burchins requested the Council study the budget and that discussion and Council review of the budget will begin next Monday, May 17, 2004 at 5:30 PM in the Council Chambers.

Mayor Mullinax thanked Mr. Burchins, Finance Director Baker and the City staff for their work in preparation of the proposed budget.

There being no further business, Mayor Mullinax recessed the work session until 5:30 PM on Monday, May 17th to continue review of the proposed 2004-2005 budget.

Respectfully submitted,

Robert A. Mullinax, Mayor

Rita K. Williams, City Clerk